

REMARKS

Claims 1-28 are pending in the application. Claims 1-28 have been rejected. No amendments to the Claims have been made. Reconsideration of the Claims is respectfully requested.

I. REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-8 and 13-24 were rejected under 35 U.S.C. § 102(e) as being anticipated by Eliott (US Patent No. 6,468,160). These rejections are respectfully traversed.

A cited prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single cited prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

As an initial matter, it should be noted that Claims 1-8 and 13-24 recite retrieving and downloading a waveform. Eliott teaches transferring video game programs. This is not a teaching of the claimed waveform. More specifically, as known in the art and described in the present specification at line 12 of page 2 through line 8 of page 3, a waveform is digital data that is to be converted into an analog signal. Applicant therefore submits that Eliott does not teach retrieving and downloading a waveform as recited in Claims 1-8 and 13-24.

Accordingly, the next Office Action should either withdraw the rejections of Claims 1-8 and 13-24, or point out, with the particularity required by 37 CFR § 1.104(c)(2), where Eliott teaches retrieving and downloading a waveform as claimed.

The Office Action alleges that all limitations of both independent Claim 1 and independent Claim 13 are taught in Eliott at line 19 of column 27 through line 56 of column

28. This material describes several different arrangements that address various aspects of transferring video game programs to a video game system. After careful review of these several arrangements described in Elliott, Applicant respectfully traverses the rejections of independent Claims 1 and 13 for the exemplary reasons set forth below.

A. Elliott column 27, lines 19-36 and lines 36-49, and Elliott column 28, lines 3-11

Independent Claim 1 recites (a similar feature can be found in independent Claim 13) “downloading said waveform to said signal generator under condition that said at least one code matches said at least one key.” This exemplary feature has not been found in Elliott. The passage at lines 19-36 of Eliot column 27 describes downloading from a server to a video game system control information that is used by the video game system to maintain secure partitions in local disk storage. The passage at lines 36-49 of Eliot column 27 describes the cooperation of multiple Internet servers to serve a video game system, including the encryption of game data. The passage at lines 3-11 of Elliott column 28 relates to the use of encrypted communication between the server and the expansion device. Clearly, none of the aforementioned portions of Elliott teach the above-quoted feature of the claimed invention.

B. Elliott column 27, line 49 – column 28, line 2

Independent Claim 1 recites (a similar feature can be found in independent Claim 13) “at least one key associated with said signal generator … [and] comparing said at least one code associated with said waveform and said at least one key.” This exemplary feature has not been found in Elliott.

The passage at lines 49-63 of Elliott column 27 teaches that an expansion device connected to the video game system has associated therewith a unique identifier that is used to secure communications between the expansion device and a server. The server uses the

identifier to verify that a request to download a video game program has been received from an authorized expansion device. Even assuming, hypothetically and for purposes of exposition only, that the downloaded video game program could be considered to be the claimed waveform, and that the expansion device identifier could be considered to be the claimed key, nevertheless, Elliott teaches simply that the expansion device identifier is used to authenticate the expansion device to receive a video game download from the server, that is, to distinguish the authentic expansion device from an unauthorized mimicking device. Applicant has not found any teaching of a code associated with the particular video game program that has been requested for download, much less comparing that code to the expansion device identifier.

At line 63 of column 27 through line 2 of column 28, Elliott indicates that the server keeps track of which video games have been downloaded, in order to facilitate the prevention of undesirable transactions such as multiple downloading of the same game. Again, even assuming, hypothetically and for purposes of exposition only, that the downloaded video game program could be considered to be the claimed waveform, and that the expansion device identifier could be considered to be the claimed key, this passage does not teach a code associated with a requested video game program, much less comparing that code to the expansion device identifier.

In view of the foregoing discussion, Applicant maintains that the passage in Elliott at line 49 of column 27 through line 2 of column 28 does not teach the above-quoted feature of the claimed invention.

C. Elliott column 28, lines 12-56

Independent Claim 1 recites (a similar feature can be found in independent Claim 13) “retrieving a waveform ... and downloading said waveform ... under condition that said at

least one code matches said at least one key.” This exemplary feature has not been found in Elliott. The passage at lines 12-56 of Elliott column 28 describes a process of authenticating a video game cartridge that has been inserted into a video game system. It appears that, if the video game cartridge is successfully authenticated, then the video game programs stored in the cartridge are permitted to be transferred to the video game system for execution. It further appears that transfer of the video game programs from the cartridge to the system is not permitted if the cartridge is not successfully authenticated. However, even if it is assumed, hypothetically and for purposes of exposition only, that the Elliott video game program could be considered to be the claimed waveform, and that a transfer of the video game program from the cartridge to the system could be characterized as either (1) the system retrieving the program from the cartridge, or (2) the cartridge downloading the program to the system, nevertheless, any transfer of the program from the cartridge to the system does not meet the above-quoted feature of the claimed invention, which specifically requires both retrieving the waveform and downloading the waveform under a condition.

As demonstrated above, Elliott does not teach each and every element of independent Claims 1 and 13 (and their dependent Claims 2-8 and 14-24) arranged as they are in the claims. Accordingly, Applicant respectfully requests that the Examiner withdraw the § 102(e) rejections of Claims 1-8 and 13-24.

II. REJECTIONS UNDER 35 U.S.C. § 103

Claims 9 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Elliott in view of Reitmeier (US Patent No. 6,560,285), and Claims 10-12 and 26-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Elliott in view of Rajsuman (US Patent No. 5,963,566). These rejections are respectfully traversed.

The aforementioned Claims 9-12 and 25-28 recite all of the exemplary features discussed above with respect to the rejections of Claims 1-8 and 13-24. Both Reitmeier and Rajsuman fail to remedy the above-described deficiencies of Elliott, so the rejections of Claims 9-12 and 25-28 are overcome for at least the same reasons given above with respect to the rejections of Claims 1-8 and 13-24.

Accordingly, Applicant respectfully requests withdrawal of the § 103 rejections of Claims 9-12 and 25-28.

III. CONCLUSION

As a result of the foregoing, the Applicant asserts that all Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number or email address indicated below.

Respectfully submitted,

ANDREW CAMINSCHI

Dated: 2/3/2006

By Holly L. Rudnick
Holly L. Rudnick
Registration No. 43,065

Garlick, Harrison & Markison, LLP
P.O. Box 670007
Dallas, Texas 75367
(Direct) (214) 387-8097
(Fax) (214) 387-7949
(Email) hrudnick@texaspatents.com